

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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GUAN ZHAO LIN,

Petitioner,

-against-

ERIC HOLDER, JR., JANET NAPOLITANO,
CHRISTOPHER SHANAHAN, and
RAJEEV S. BHATIA,

Respondents.
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10 Civ. 4316 (RMB) (JLC)

ORDER

I. Background and Analysis

On July 29, 2010, United States Magistrate Judge James L. Cott, to whom this matter had been referred, issued a Report and Recommendation (“Report”) recommending that the Court dismiss as moot the petition for a writ of habeas corpus, dated May 28, 2010 (“Petition”), filed by Guan Zhao Lin (“Petitioner” or “Lin”) because of Lin’s recent deportation on July 22, 2010. The Petition had sought Lin’s release from the United States Immigration and Customs Enforcement (‘ICE’) Detention Center in New York, New York where Petitioner had been detained following his arrest on May 28, 2010 pursuant to a final order of removal entered on July 27, 1994. (Pet., dated May 28, 2010, ¶¶ 4–5, 33 & p. 14; see also Report at 3.)¹

Judge Cott properly determined that, “[a]s a result of [Petitioner’s] deportation to China, Petitioner is no longer in ICE custody and, therefore, no longer ‘suffer[s], or [is] threatened with, an actual injury traceable to the [Respondents] and likely to be redressed by a favorable judicial decision. . . . Thus, the [P]etition is moot.” (Report at 2 (citations omitted)); see Davies v.

¹ As stated in the Court’s Order, dated July 21, 2010, which was issued before Petitioner’s deportation, “it is important to note that the relief that Mr. Lin seeks, in this Court, is ‘not relief from removal.’” (Order, dated July 21, 2010 at 1 (quoting Mem. of Law in Supp. of Mot. for Prelim. Inj., dated June 22, 2010, ¶ 20).

Goffman, No. 09 Civ. 7224, 2010 WL 2834834, at *1 (S.D.N.Y. July 19, 2010) (“[S]ince [p]etitioner is no longer in ICE custody, the relief requested through his habeas petition – release from [r]espondent’s custody – has been effected.”); Singh v. Mule, No. 06 Civ. 6387, 2009 WL 204618, at *9 (W.D.N.Y. Jan. 27, 2009) (“Thus, since there is no ‘effectual relief,’ . . . that this Court can now provide to Singh, his habeas petition has been rendered moot.” (quoting City of Erie v. Pap’s A.M., 529 U.S. 277, 287 (2000))).

II. Order

For the reasons stated herein, in the Court’s Order dated July 21, 2010, and in the Report, the Report [#42] is adopted in its entirety and the Petition [#1] is denied as moot. The Clerk of Court is respectfully requested to close this case.

Dated: New York, New York
August 23, 2010


RICHARD M. BERMAN, U.S.D.J.